

G. Ruppert



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: R.C. Benson & Sons, Inc.

File: B-240251.2

Date: July 31, 1990

Richard C. Benson, for the protester.
George Ruppert, Esq., and John M. Melody, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Bid is responsive despite individual surety's failure to
file pledge of assets with bid bond since a pledge of assets
concerns responsibility and thus may be furnished any time
prior to award.

DECISION

R.C. Benson & Sons, Inc. protests an award of a contract to
Pamfilis Painting, Inc. under invitation for bids (IFB)
No. F04689-90-B-0004, issued by the Department of the
Air Force. Benson contends that Pamfilis's bid should have
been rejected as nonresponsive because the bidder failed to
submit with its bid a "pledge of assets" for the individual
surety supporting its required bid guarantee.

We dismiss the protest without obtaining a report from the
agency because it is clear from the face of the protest that
it does not state a valid basis for protest. Bid Protest
Regulations, 4 C.F.R. § 21.3(m) (1990).

The purpose of a bid guarantee is to secure the liability of
a surety to the government in the event that the bidder
fails to fulfill its obligation to execute a written
contract. The sufficiency, and thus the responsiveness, of
a bid guarantee depends on whether a surety is clearly bound
by its terms. O. V. Campbell & Sons Indus., Inc., B-229555,
Mar. 14, 1988, 88-1 CPD ¶ 259. The failure to submit a
surety's pledge of assets with the bid, however, in no way
affects the individual surety's liability. In fact, a
pledge of assets serves only one purpose: it assists the
contracting officer in determining the financial accept-
ability of the individual surety, which itself is a matter

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of responsibility, not responsiveness. See Aceves Constr. and Maintenance, Inc., B-233027, Jan. 4, 1989, 89-1 CPD ¶ 7. Thus, even though the IFB required a pledge of assets from individual sureties, since the pledges contain information bearing on responsibility, they may be provided any time prior to award. See American Constr., B-213199, July 24, 1984, 84-2 CPD ¶ 95. Therefore, Pamfilis's submission of its pledge of assets after bid opening had no effect on the responsiveness of its bid; it was permissible since it had no bearing on the contractor's promise to perform.

To the extent Benson may be challenging Pamfilis's responsibility, i.e., the sufficiency of its surety's pledge of assets, this issue will not be considered; our Office will not review protests against affirmative determinations of responsibility absent a showing of possible fraud or bad faith on the part of the contracting officials. 4 C.F.R. § 21.3(m)(5); Nationwide Glove Co., Inc., 67 Comp. Gen. 151 (1987), 87-2 CPD ¶ 624. Benson has not alleged or shown possible fraud or bad faith on the part of contracting officials.

The protest is dismissed.

Michael R. Golden

for

Ronald Berger
Associate General Counsel